

INTERVENTION



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AZ CORP COMMISSION
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COMMISSIONER
4

BEFORE THE ARIZONA CORPORATION COMMISSION

5
6 IN THE MATTER OF THE JOINT
APPLICATION OF CITIZENS UTILITIES
COMPANY; AGUA FRIA WATER
7 DIVISION OF CITIZENS UTILITIES
COMPANY; MOHAVE WATER DIVISION
8 OF CITIZENS UTILITIES COMPANY;
SUN CITY WATER COMPANY; SUN
9 CITY SEWER COMPANY; SUN CITY
WEST UTILITIES COMPANY; CITIZENS
10 WATER SERVICES COMPANY OF
ARIZONA; CITIZENS WATER
11 RESOURCES COMPANY OF ARIZONA;
HAVASU WATER COMPANY AND
12 TUBAC VALLEY WATER COMPANY,
INC., FOR APPROVAL OF THE
13 TRANSFER OF THEIR WATER AND
WASTEWATER UTILITY ASSETS AND
14 THE TRANSFER OF THEIR
CERTIFICATES OF PUBLIC
15 CONVENIENCE AND NECESSITY TO
ARIZONA-AMERICAN WATER
16 COMPANY AND FOR CERTAIN
RELATED APPROVALS.
17

DOCKET NOS. W-01032A-00- 0192
W-01032B-00- 0192
W-01032C-00- 0192
S-02276A-00- 0192
WS-02334A-00-0192
WS-03454A-00-0192
WS-03455A-00-0192
W-02013A-00- 0192
W-01595A-00- 0192
W-01303A-00- 0192

ARIZONA-AMERICAN WATER
COMPANY'S OBJECTION TO THE
APPLICATION OF MARVIN LUSTIGER
FOR LEAVE TO INTERVENE

18 Arizona-American Water Company, an Arizona corporation ("Arizona-
19 American") hereby objects to the application for leave to intervene filed by Marvin
20 Lustiger on April 10, 2000, and requests that such application be denied. This
21 application does not satisfy the requirements set forth in A.A.C. R14-3-105, which
22 governs intervention in proceedings before the Arizona Corporation Commission
23 ("the Commission").

24 In the above-entitled matter, Arizona-American and Citizens Utilities
25 Company, together with Citizens' subsidiaries that provide water and wastewater
26 services within Arizona (collectively "Citizens"), have requested an order

ORIGINAL

MISCELLANEOUS FILINGS

____ 04 AFFIDAVIT
____ 12 EXCEPTION
____ 18 REQUEST FOR INTERVENTION
____ 48 REQUEST FOR HEARING
____ 24 OPPOSITION
____ 50 COMPLIANCE ITEM FOR APPROVAL

____ 29 STIPULATION
____ 38 NOTICE OF INTENT
____ (Only notification of future action/no action necessary)
____ 43 PETITION
____ 46 NOTICE OF LIMITED APPEARANCE
____ 39 **OTHER**
Specify: Objection to application to intervene


Print Name of Applicant/Company/contact person

Citizens Utilities Company, et al./Craig Marks, Carl J. Dabelstein

Arizona-American Water Company/Norman D. James, Fennemore Craig

Arizona Corporation Commission
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1 authorizing the transfer of all water and wastewater utility plant, property and
2 related assets to Arizona-American and for certain related regulatory approvals. It
3 should be emphasized that this is not a rate proceeding. Arizona-American has
4 specifically requested authority to continue to charge the rates for water and
5 wastewater utility service that are set forth in the filed tariffs of Citizens. The
6 approvals sought in this proceeding pertain only to the transfer of Citizens' water
7 and wastewater assets and related accounting issues.

8 On April 10, 2000, Mr. Lustiger filed a letter stating, in part:

9 I understand there are many pending Citizens' cases on
10 your docket concerning (1.) proposed rate changes, and
11 (2.) the divestiture by Citizens of portions of its facilities
12 and certificates, and (3.) the acquisition by Citizens from
others of facilities and certificates, within and outside
Arizona.

13 * * *

14 Please enter me at once as an intervenor, in every
15 pending case which falls into any of the above three
categories. It was good to learn that no perspective
intervenor has ever been denied.

16 This sort of blanket request for intervention in every pending matter pertaining to or
17 involving a change in a rate or charge for service, the sale or transfer of any
18 facilities, or the acquisition of any facilities, within or outside Arizona, does not
19 comport with the requirements of R14-3-105. Under this rule, Mr. Lustiger must
20 demonstrate that he is ***"directly and substantially affected by the proceedings."***
21 A.A.C. R14-3-105(A) (emphasis supplied). Mr. Lustiger has not satisfied this
22 requirement.

23 In his letter, Mr. Lustiger states that he owns "considerable property in
24 Arizona, served by Citizens Utilities Company and its subsidiary." However, Mr.
25 Lustiger fails to identify the location of this property and the nature of the utility
26 service provided. At present, Citizens provides telephone, electric, gas, water and

1 wastewater services in a variety of different areas throughout Arizona. It is
2 impossible to know whether Citizens currently provides water and/or wastewater
3 service to any property owned by Mr. Lustiger and whether Mr. Lustiger, as a
4 customer, will actually be affected by the relief sought in the application.

5 Mr. Lustiger also states that he has "a multi-million dollar action pending
6 against Citizens in the federal court." Again, however, Mr. Lustiger has failed to
7 provide any description of this lawsuit and an explanation of how it relates to
8 Arizona-American's acquisition of Citizens water and wastewater systems. He has
9 not attached a copy of his federal court complaint or described the nature of his
10 claims against Citizens with reasonable specificity. It is impossible to tell whether
11 or how the pendency of this lawsuit relates in any way to this proceeding.

12 R14-3-105(B) provides that an application for leave to intervene "must state
13 the basis for the application." Mr. Lustiger's letter fails to satisfy that requirement.
14 A blanket request to intervene in any and all proceedings involving Citizens is
15 inherently suspect. Unless Mr. Lustiger can demonstrate that he is directly and
16 substantially affected by the approvals sought in this particular proceeding,
17 intervention must be denied.

18 RESPECTFULLY SUBMITTED this 21st day of April, 2000.

19 FENNEMORE CRAIG

20
21 By Norm D. James
22 Norman D. James
23 3003 North Central Avenue
24 Suite 2600
25 Phoenix, Arizona 85012
26 Attorneys for Arizona-American
Water Company

1 An original and 10 copies
2 of the foregoing
3 were filed this 21st
4 day of April, 2000, with:

5 Docket Control
6 Arizona Corporation Commission
7 1200 West Washington Street
8 Phoenix, Arizona 85007

9 A copy of the foregoing
10 was delivered this 21st day of
11 April, 2000, to:

12 Jerry L. Rudibaugh, Esq.
13 Chief Hearing Officer
14 Hearing Division
15 Arizona Corporation Commission
16 1200 West Washington Street
17 Phoenix, Arizona 85007

18 Deborah R. Scott, Esq.
19 Director, Utilities Division
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 Lyn A. Farmer, Esq.
24 Chief Counsel
25 Teena Wolfe, Esq.
26 Staff Attorney
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

A copy of the foregoing was
mailed this 21st day of April, 2000 to:

Mr. Marvin Lustiger
5105 N. 79th Pl.
Scottsdale, AZ 85250

Craig A. Marks, Esq.
Associate General Counsel
Citizens Utilities Company
2901 N. Central Avenue
Phoenix, Arizona 85012

By: Mary L House